

297754



MURFIN  
DRILLING  
CO., INC.



CONTRACTORS AND PRODUCERS

September 21, 2004

**VIA OVERNIGHT MAIL AND FAX-708/283-3565**

Doug Sawin, Field Administrator  
U.S. Department of Transportation  
Federal Motor Carrier Safety Administration  
Midwestern Service Center  
19900 Governors Drive, Suite 210  
Olympia Fields, IL 60461-1021

*FMCSA-2004-19226-1*

**Re: Case #KS-2004-0121-US0784  
REPLY TO NOTICE OF CLAIM**

Dear Mr. Sawin:

By written Notice of Claim, dated September 8, 2004, the US Department of Transportation, Federal Motor Carrier Safety Administration (the "DOT"), alleged that Murfin Drilling Company, Inc. ("Murfin") had committed one violation of 49 CFR § 391.45(a)/391.11(a); and one violation of 49 CFR § 396.17(a); and assessed a civil penalty of \$3,440 for the alleged violations.

In accordance with 49 CFR 386.14, and for the reasons and evidence submitted hereafter, Murfin contests the allegations, and requests that the allegations and civil penalty be dismissed. In the alternative, Murfin requests that the civil penalty be reduced. Murfin does not request a hearing on this matter, but instead has submitted with this Reply, the evidence to support its request for dismissal or reduction.

**The Alleged Violations**

The September 8, 2004 Notice of Claim contains the following two specific allegations:

1. "On or about 04/21/2004, Murfin Drilling Company Inc required or permitted its driver, Jason Allen to drive a commercial motor vehicle in interstate commerce from Danbury, Nebraska to Danbury, Nebraska. At the time of this transportation, Jason Allen had not been physically examined for an initial examination and issued a New Certificate, until 8/06/04.

[49 CFR § 391.45(a)/391.11(a)—Using a driver not medically examined and certified; Civil Penalty assessed: \$1,730.]

2. “On or about 05/18/2004, Murfin Drilling Company Inc operated commercial motor vehicle # 892 & homemade flatbed trailer in interstate commerce from Trenton, Nebraska to Culberston, Nebraska, which had not passed an inspection in accordance with 49 CFR § 396.17 during the preceding 12-month period. The two vehicles combined gross combination weight rating was 10,800 pounds, which at time of dispatch was subject to the Federal Motor Carrier Safety Regulations.”

[49 CFR § 396.17(a)—Using a commercial motor vehicle not periodically inspected; Civil Penalty assessed: \$1710.]

#### **Response to Allegations**

In response to the first allegation, Murfin submits documentation attached as **Exhibit A**, showing that as of August 4, 2004, Jason Allen has a current Medical Examiner's Certificate. In late July and early August 2004, Murfin discovered through its own internal review, that a current Medical Examiner's Certificate was not on file for Mr. Allen. Murfin immediately cured the matter by requiring and obtaining from Mr. Allen a current Medical Examiner's Certificate. The Certificate is now in Mr. Allen's file. Additionally, Murfin has implemented file review procedures that enable the Company and each driver to be reminded in advance of the time to obtain a new Medical Examiner's Certificate. This will insure that Murfin will always have on file a current Medical Examiner's Certificate for each individual driver that drives a commercial motor vehicle for Murfin, and will enable Murfin to prevent any driver from driving if his/her Certificate expires without being renewed.

In response to the second allegation, Murfin submits documentation attached as **Exhibit B**, showing that its commercial motor vehicle #892 has now had its annual inspection. The homemade flatbed trailer has been put out of service and sold to a farmer; Murfin will no longer be using the trailer. Murfin further asserts that, although it is its duty to know and follow all DOT safety rules and regulations, it believed in good faith that vehicle #892 when used in combination with the homemade trailer did not create a vehicle that was subject to 49 CFR § 396.17(a). Upon learning of its error in interpretation, Murfin immediately cured the matter by obtaining the vehicle inspection and disposing of the trailer.

#### **Other Recommendations Implemented**

In addition to the above-described curative measures and policies, Murfin immediately implemented all of the other recommendations from that DOT audit conducted at our offices on

Reply to Notice of Claim  
Murfin Drilling Company, Inc.  
September 21, 2004  
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August 23 and 24, 2004. Our letter to DOT describing the changes implemented and appropriate documentation, are attached to this Reply as **Exhibit C**.

#### **Other Compliance-Driven Initiatives**

In addition to the specific curative measures and policies described above, in recent months Murfin has taken the extraordinary step for a firm of its size, of hiring inhouse legal counsel to assist with its regulatory compliance matters, and has hired an expert consultant to assist specifically with DOT compliance matters. This represents a dedicated and sincere effort on the part of Murfin's management to maintain a company culture that fosters and demands the highest level of safety and compliance.

#### **Conclusion**

For all of the foregoing reasons, Murfin requests that the two allegations listed in the September 8, 2004 Notice of Claim, and the civil penalty assessed therewith, be withdrawn and dismissed, or in the alternative, that the amount of the civil penalty be reduced.

Respectfully submitted,



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Diana Edmiston, # 15160 (KS)  
General Counsel  
Murfin Drilling Company, Inc.  
250 N. Water St., Suite 300  
Wichita, KS 67202  
Phone 316/267-3241, x170  
Fax 316/237-6004

Attorney for Murfin Drilling Company, Inc.

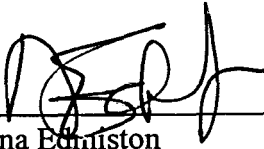
## CERTIFICATE OF SERVICE

I certify that on September 22, 2004, a true and accurate copy of the above and foregoing **Reply to Notice of Claim** was served by U.S. Mail or overnight mail, postage prepaid, addressed to the following party(ies):

Chief Safety Officer  
Federal Motor Carrier Safety Administration  
Attn: Dockets  
400 7<sup>th</sup> Street, S.W., Room PL-401  
Washington, DC 20590

Teri L. Graham, Division Administrator  
US Department of Transportation  
Federal Motor Carrier Safety Administration  
3300 SW Topeka Blvd.  
Suite 1  
Topeka, KS 66611-2275

U.S. Department of Transportation  
Federal Motor Carrier Safety Administration  
FMCSA Docket Clerk  
Midwestern Service Center  
19900 Governors Drive  
Suite 210  
Olympia Fields, IL 60461-1021

  
\_\_\_\_\_  
Diana Edmiston

## Exhibit A

# MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Allen Teson  
in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.40) and with knowledge of the driving  
duties, I find this person to be qualified, and if applicable, only when:

- ☐ wearing corrective lenses ☐ driving while on exempt hearing except 391.40
- ☐ wearing hearing aid ☐ accompanied by a 3rd Performance Evaluation Certificate (PFE)
- ☐ accompanied by a \_\_\_\_\_ with exception ☐ qualified by operation of 40 (49 CFR 391.40)

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment encloses my finding completely and correctly, and is on file in my office.

QT12 SMALL Jack-BK 800-522-6245 www.jackbk.net INTERDRIVERS COPY YELLOW MOTOR CARRIERS COPY

SIGNATURE OF MEDICAL EXAMINER <u>[Signature]</u>	TELEPHONE <u>(303) 345-4410</u>	DATE <u>8/6/06</u>
MEDICAL EXAMINER'S NAME (PRINT) <u>R. Schmitz, M.D.</u>	<input type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> Chiropractor <input checked="" type="checkbox"/> Physician Assistant <input type="checkbox"/> Licensed Practical Nurse	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. ISSUING STATE <u>ST 8000 INK</u>		
SIGNATURE OF DRIVER <u>[Signature]</u>	DRIVER'S LICENSE NO.	STATE
ADDRESS OF DRIVER		
MEDICAL CERTIFICATE EXPIRATION DATE <u>8/6/06</u>		



## Exhibit B

# Exhibit B

VEHICLE HISTORY RECORD	
REPORT NUMBER	FLEET UNIT NUMBER
1	892
DATE 8-26-04	

MOTOR CARRIER OPERATOR <b>Murphy Drilling Co</b>	INSPECTOR'S NAME (PRINT OR TYPE) <b>Bobby Gilbert</b>
ADDRESS <b>East HUY24 II</b>	THIS INSPECTOR MEETS THE QUALIFICATION REQUIREMENTS IN SECTION 396.19. <b>YES</b>
CITY, STATE, ZIP CODE <b>Hill City KS 67642</b>	VEHICLE IDENTIFICATION (VIN) AND COMPLETE <input type="checkbox"/> LIC. PLATE NO. <input type="checkbox"/> VIN <input checked="" type="checkbox"/> OTHER <b>892</b>
VEHICLE TYPE <input type="checkbox"/> TRACTOR <input type="checkbox"/> TRAILER <input type="checkbox"/> TRUCK <input checked="" type="checkbox"/> (OTHER)	INSPECTION AGENCY/LOCATION (OPTIONAL) <b>Central - Detroit Diesel - Allison</b>

VEHICLE COMPONENTS INSPECTED											
OK	NEEDS REPAIR	REPAIRED DATE	ITEM	OK	NEEDS REPAIR	REPAIRED DATE	ITEM	OK	NEEDS REPAIR	REPAIRED DATE	ITEM
			1. BRAKE SYSTEM				4. FUEL SYSTEM				9. FRAME
			a. Service Brakes				a. Visible leak				a. Frame Members
X			b. Parking Brake System				b. Fuel tank filler cap missing				b. Tire and Wheel Clearance
X			c. Brake Drums or Rotors				c. Fuel tank securely attached				c. Adjustable Axle Assemblies (Sliding Subframes)
X			d. Brake Hose								
			e. Brake Tubing	X			5. LIGHTING DEVICES				10. TIRES
			f. Low Pressure Warning Device				All lighting devices and reflectors required by Section 393 shall be operable.	X			a. Tires on any steering axle of a power unit.
			g. Tractor Protection Valve					X			b. All other tires.
			h. Air Compressor				6. SAFE LOADING				11. WHEELS AND RIMS
			i. Electric Brakes				a. Part(s) of vehicle or condition of loading such that the spare tire or any part of the load or dunnage can fall onto the roadway.	X			a. Lock or Side Ring
			j. Hydraulic Brakes				b. Protection against shifting cargo	X			b. Wheels and Rims
X			k. Vacuum Systems					X			c. Fasteners
								X			d. Welds
			2. COUPLING DEVICES				7. STEERING MECHANISM				12. WINDSHIELD GLAZING
			a. Fifth Wheels				a. Steering Wheel Free Play				Requirements and exceptions as stated pertaining to any crack, discoloration or vision reducing matter (reference 393.60 for exceptions)
			b. Pintle Hooks				b. Steering Column				13. WINDSHIELD WIPERS
X			c. Drawbar/Towbar Eye	X			c. Front Axle Beam and All Steering Components Other Than Steering Column				Any power unit that has an inoperative wiper, or missing or damaged parts that render it ineffective.
			d. Drawbar/Towbar Tongue				d. Steering Gear Box				List any other condition which may prevent safe operation of this vehicle.
			e. Safety Devices				e. Pitman Arm				
			f. Saddle-Mounts				f. Power Steering				
							g. Ball and Socket Joints				
X			3. EXHAUST SYSTEM				h. Tie Rods and Drag Links				
			a. Any exhaust system determined to be leaking at a point forward of or directly below the driver/sleeper compartment.	X			i. Nuts				
			b. A bus exhaust system leaking or discharging to the atmosphere in violation of standards (1), (2) or (3).	X			j. Steering System				
X			c. No part of the exhaust system of any motor vehicle shall be so located as would be likely to result in burning, charring, or damaging the electrical wiring, the fuel supply, or any combustible part of the motor vehicle.	X			8. SUSPENSION				
							a. Any U-bolt(s), spring hanger(s), or other axle positioning part(s) cracked, broken, loose or missing resulting in shifting of an axle from its normal position.				
							b. Spring Assembly				
							c. Torque, Radius or Tracking Components.				

INSTRUCTIONS: MARK COLUMN ENTRIES TO VERIFY INSPECTION: X OK, X NEEDS REPAIR, NA IF ITEMS DO NOT APPLY,      REPAIRED DATE

CERTIFICATION: THIS VEHICLE HAS PASSED ALL THE INSPECTION ITEMS FOR THE ANNUAL VEHICLE INSPECTION REPORT IN ACCORDANCE WITH 49 CFR 396.



## Exhibit C

W. R. MURFIN



MURFIN  
DRILLING  
COMPANY



CONTRACTORS AND PRODUCERS

REPLY TO P. O. BOX 661  
COLBY, KANSAS 67701

(813) 462-7541  
(785-462-7541)

August 31, 2004

Federal Motor Carrier Safety  
3300 South Topeka Blvd, Suite #1  
Topeka, KS 66611-2275  
785-267-7288

This letter is to inform you that Murfin Drilling Company, Inc. (U.S. DOT #069302) has taken the following actions to correct all violations sighted against our company per our review dated 8-24-04.

We have enacted many new company policy's to secure that these types of violations will not be repeated.

We have corrected all violations as stated below:

1. Our company notified and trained all supervisors regarding proper procedures for drug testing to be conducted during an accident. The employee is to call Colby or Hill City office if they have questions.
2. Our company notified all supervisors & drivers regarding proper procedures for drug testing to be conducted after an accident.
3. Our company has revised our Sensitive Security Plan for our specific type of operations and procedures to follow when threat levels change.
4. We have developed & implemented a company policy which prohibits any employee from being hired and used in a sensitive position until the negative pre-employment drug and/or alcohol test has been received.
5. We have DOT tested Mr. John Rogers on 8-26-04 so he could be included in our random drug and alcohol testing.
6. We have reviewed & established a driver status report which shows endorsements and when driver's license expires. This will enable us to know at a glance who is qualified to transport Haz-Mat products.
7. We have established and will maintain a driver qualification file for all employees who operate a company vehicle that fall under Federal Safety regulations.

MURFIN DRILLING COMPANY

8. The driver status report reflects the date a medical certificate expires. We are also retaining the previous medical certificate on file.
9. Supervisors held a meeting with all drivers and instructed them on the proper way to complete a log. Special training was given to Mr. Steve Thompson on signing, location of duty status, total hours, all lines filled in, proper name's & commodity being hauled.
10. Maintenance records have ALL been reviewed and corrected with all necessary information.
11. Unit #892 was inspected on 8-26-04 and it has been added to a list of all commercial vehicles which shows the last date of inspection and the date the next inspection is due.

Sincerely,



Martin Ruda  
Trucking Superintendent  
Murfin Drilling Company, Inc.  
P.O. Box 661  
Colby, KS 67701  
785-462-7541

**Pipeline Testing  
Consortium, Inc.**

#5 382.305

9 Compound Drive • Hutchinson, Kansas 67502 • (620) 669-8800 • FAX (620) 669-0906

**KANSAS INDEPENDENT OIL & GAS ASSOCIATION (KIOGA)  
NEW EMPLOYEE NOTIFICATION**

FROM: Murfin Drilling Company, Inc.

250 N. Water, Suite 300

Wichita, KS 67202

(316) 267-3241

**FAXED**  
8-26-04  
PLW  
ad

TO: **Pipeline Testing Consortium, Inc.**  
(620) 669-8800  
(620) 669-0906 FAX  
Contact: Signe Gossman, Customer Service

TO: **Mindi Whyte**  
(316) 267-6004 FAX

The following individual has been hired for our company

JOHN M. ROGERS  
(PRINT EMPLOYEE NAME)

521 - 56 - 0813 Please add this individual to our company's Alcohol and Drug Program  
(SOCIAL SECURITY NUMBER)

random testing pool as follows: (please mark the correct test type with an "X")

       Non-DOT  
X DOT CDL - Yes X No       

~~Drilling Rig~~ # Trucking Dept.  
(NAME OF DEPARTMENT)

ON FILE  
(SIGNATURE OF CONTACT PERSON)

Martin Rude  
(SUPERVISOR)

8-26-04  
(DATE)

**\*\*PLEASE FAX THIS FORM TO\*\***

**PIPELINE TESTING CONSORTIUM**  
(620) 669-0906  
ATTENTION: SIGNE GOSSMAN

**MURFIN DRILLING - WICHITA**  
(316) 267-6004  
ATTN: Mindi Whyte

**ATTENTION FIELD:**

**RETURN THIS ORIGINAL FORM TO WICHITA OFFICE TO BE KEPT WITH PAYROLL FILE -  
MAKE A COPY FOR YOUR FIELD RECORDS.**

## FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

SPECIMEN ID NO.

CLINICAL REFERENCE  
LABORATORY

8433 QUTVIRA JENEA, KANSAS 66715

PIPELINE TESTING CONSORT

0041516517

## STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

LAB ACCESSION NO.

A. Employer Name, Address, I.D. No. PH: 800-294-8758  
FCB: PTC.PTC FX: 620-669-0906  
PIPELINE TESTING CONSORT  
9 COMPOUND DR HUTCHINSON, KS, 67502  
MURFIN DRILLING CO. (IMA)

B. MRO Name, Address, Phone and Fax No. MRO1752

DR DAVID PAINE  
7 COMPOUND DRIVE  
HUTCHINSON, KS 67502  
PHONE: 866-359-0414  
FAX: 620-664-5594

C. Donor SSN or Employee I.D. No. 5211-516-108131

D. Reason for Test: ☒ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident  
☐ Return to Duty ☐ Follow-up ☐ Other (specify) \_\_\_\_\_

E. Drug Tests to be Performed: ☒ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) \_\_\_\_\_

F. Collection Site Address:

Citizens Medical Center  
100 E College Dr  
Liberty, KS 67201

Collector Phone No.

785-460-1261

Collector Fax No.

785-460-1261

## STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No, enter remark

Specimen Collection

☒ Split ☐ Single ☐ None Provided  
(Enter Remark)

☐ Observed  
(Enter Remark)

REMARKS:

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

## STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

Signature of Collector [Signature]  
(PRINT) Collector's Name (First, MI, Last) ROBERT A. HATHA  
Mo. 09 Day 25 Year 09

SPECIMEN BOTTLE(S) RELEASED TO:

☐ Airborne  
☐ Fed Ex  
☐ Other

RECEIVED AT LAB

X Signature of Accessioner

(PRINT) Accessioner's Name (First, MI, Last)

Date (Mo./Day/Yr.) 1/1

Primary Specimen  
Bottle Seal Intact

☐ Yes ☐ No, enter remarks below

SPECIMEN BOTTLE(S) RELEASED TO:

## STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X Signature of Donor [Signature]

Daytime Phone No. 866-462-8741

Evening Phone No. 785-694-2957

JOHNNY ROGERS  
(PRINT) Donor's Name (First, MI, Last)  
Date (Mo./Day/Yr.) 9/26/04  
Mo. 9 Day 26 Yr. 04

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records.

THIS LIST IS NOT NECESSARY. If you chose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). - DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

## STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ Negative ☐ Positive ☐ Test Cancelled ☐ Refusal to Test because:  
☐ Dilute ☐ Adulterated ☐ Substituted

REMARKS

X Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.) 1/1

## STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON

X Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.) 1/1

DONOR COPY

2/04

**MEDICAL EXAMINER'S CERTIFICATE**

I certify that I have examined Gordon R. Witt in accordance with the Federal Motor Vehicle Safety Regulations (49 CFR 393.41-393.49) and with the provisions of the driving rules, I find this person is qualified, and, if applicable, only when:

<input checked="" type="checkbox"/> wearing corrective lenses	<input type="checkbox"/> driving under an alcohol restraint zone (49 CFR 393.48)
<input type="checkbox"/> wearing hearing aid	<input type="checkbox"/> accompanied by a valid Podiatric Physician Certificate (PPC)
<input type="checkbox"/> accompanied by a _____	<input type="checkbox"/> Qualified by operation of 49 CFR 393.41

The information I have provided regarding this physical examination is true and complete. A complete examination form with any subsequent annotation my findings completely and correctly. AND is on file in my office.

Signature of Medical Examiner: Jeanne J. Moran Telephone: 402-475-2221 Date: \_\_\_\_\_

Medical Examiner's Name (Print): Jeanne J. Moran ☐ MD ☐ DO ☐ Chiropractor

Medical Examiner's License or Certificate No. / Issuing Date: 4317659 ☐ Physician Assistant ☐ Advanced Practice Nurse

Signature of Driver: [Signature] Driver's License No. VG026272 ST NE

Address of Driver: Rt 1 Box 16 Mobley NE 69026

Medical Certificate / Computer Date: 8/3/06

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